

AMENDED IN ASSEMBLY APRIL 10, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 840

Introduced by Assembly Member Calderon

February 20, 2003

An act to add Section 1769 to the Public Utilities Code, relating to public utilities.

LEGISLATIVE COUNSEL'S DIGEST

AB 840, as amended, Calderon. Public Utilities Commission: evidence: orders or decisions: review.

Under existing law, the ~~commission~~ *Public Utilities Commission* is not required to apply the technical rules of evidence to hearings, investigations, and proceedings, which are governed by certain existing law and by rules of practice and procedure adopted by the commission.

Existing law provides for judicial review of an order or decision of the Public Utilities Commission in the courts of appeal or Supreme Court, and requires the writ of mandamus to lie from the Supreme Court and from the court of appeal to the commission in all proper cases as prescribed in a specified section of the Code of Civil Procedure.

This bill would require all evidence in any ~~ratemaking, adjudication, or quasi-legislative case~~ to be taken in accordance with certain existing law governing evidence in administrative proceedings. The bill would ~~authorize~~ *require* judicial review of ~~any~~ *a* decision of the commission pursuant to other additional provisions of the Code of Civil Procedure pertaining to the writ of mandamus *upon the verified petition of the party beneficially interested, that there is no other plain, speedy, and adequate remedy. The bill would also require judicial review upon the*

verified petition of the party beneficially interested, that the decision relies on reasoning that misconstrues, misinterprets, or misapplies a relevant statutory provision or that it relies on unconstitutional or unenforceable statutory provisions. The bill would require the commission to amend its rules of practice and procedure in accordance with the requirements of this bill.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 1769 is added to the Public Utilities
- 2 Code, to read:
- 3 ~~(a)~~
- 4 1769. (a) Notwithstanding Section 1701, all evidence in any
- 5 ~~ratemaking, adjudication, or quasi-legislative case~~ shall be taken
- 6 in accordance with Section 11513 of the Government Code.
- 7 ~~1769.—~~
- 8 (b) Notwithstanding any other provision of this article,
- 9 ~~including, but not limited to, Section 1759,~~ judicial review of any
- 10 a decision of the commission ~~may shall~~ be had pursuant to Chapter
- 11 2 ~~(commencing with Section 1084) of Title 1 of Part 3 of the Code~~
- 12 ~~of Civil Procedure.~~ *upon the verified petition of the party*
- 13 *beneficially interested, under either of the following*
- 14 *circumstances:*
- 15 (1) *Petitioner has no plain, speedy, or adequate remedy in the*
- 16 *ordinary course of law.*
- 17 (2) *The petition challenges the decision on either of the*
- 18 *following grounds:*
- 19 (A) *The decision relies on reasoning that misconstrues,*
- 20 *misinterprets, or misapplies a relevant statutory provision.*
- 21 (B) *The decision relies on a statutory provision that is*
- 22 *unconstitutional, or unenforceable on the basis that federal law or*
- 23 *federal regulation prohibits its enforcement.*
- 24 (c) The commission shall amend its rules of practice and
- 25 procedure in accordance with this section.